



EXPRESS MAIL NO EV560402711US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Brian Wells et al.
Patent No. : 6,861,167
Issued : March 1, 2005
For : FUEL CELL RESUSCITATION METHOD AND APPARATUS

Examiner : Bruce F. Bell
Art Unit : 1746
Docket No. : 130109.408
Date : March 30, 2005

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT
UNDER 37 CFR 1.705(d)

Commissioner for Patents:

Applicants hereby request reconsideration, under 37 CFR 1.705(d), of the patent term of 193 days noted on the face of U.S. Patent No. 6,861,167 issued March 1, 2005.

Applicants timely submitted an Application for Patent Term Adjustment (under 37 CF 1.705(b)) with payment of the issue fee on August 10, 2005. The Notice of Allowance had indicated a patent term adjustment of 232 days, and Applicants applied for reconsideration of an additional 97 days, for a total of 329 days. A copy of this Application and its attachments is included herewith.

Applicants submitted the required Application for Patent Term Adjustment fee of \$200 with its issue fee by check no. 29406 in the amount of \$1,839, which included issue fee of \$1,330, publication fee of \$300, three advance copies for \$9, **and \$200 for the Application for Patent Term Adjustment fee.** A copy of cancelled check no. 29406 is enclosed.

Applicants' prior Application for Patent Term Adjustment was not forwarded to the Office of Petitions for consideration (per telephone conference with the Office of Petitions), although it was scanned into the Image File Wrapper. Applicants were then assessed an additional 120 days (4 months) of patent term for an After Notice of Allowance Filing under 37 CFR 1.704(c)(10). The patent issued with a patent term adjustment of only 193 days. No ruling on the Application for Patent Term Adjustment was ever issued.

In a telephone conference with a representative from the PTA Helpline, Applicants' counsel was assured that the Patent Office erred in not processing Applicants' Application for Patent Term Adjustment. Further, the deduction of an additional 120 days was also in error. Applicants were advised to file this 705(d) Petition to redress these errors.

Applicants hereby request that the 120 days of patent term be restored (for a PTA of 232 days), and that Applicants' earlier Application for Patent Term Adjustment be considered (for a PTA of 329 days). Applicants respectfully request that this Application does not raise "issues that were raised, or could have been raised, in an application for patent term adjustment under patent term adjustment under paragraph (b) of [§ 1.705(d)] ...". Although the issues were timely raised, they were not considered, and this Application for Patent Term Adjustment under 1.705(d) is Applicants' only recourse.

Applicants believe that the customary fee of \$200 for this second Application for Patent Term Adjustment should be waived in light of the circumstances described above. However, should the Commissioner disagree, authorization is hereby given to charge any additional fees due by way of this filing to our Deposit Account No. 19-1090.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



Karl R. Hermanns

Registration No. 33,507

KRH/lhk

Patent No. 6,861,167

Application for Patent Term Adjustment under 37 CFR 1.705(d)

Enclosures:

Application for Patent Term Adjustment filed August 10, 2004, with attachments

Copy of cancelled check no. 29406

701 Fifth Avenue, Suite 6300

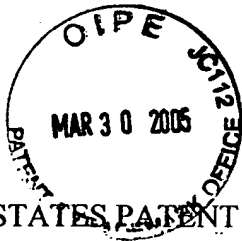
Seattle, Washington 98104-7092

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EXPRESS MAIL NO EV335393297US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Brian Wells et al.
Application No. : 09/916,213
Filed : July 25, 2001
For : FUEL CELL RESUSCITATION METHOD AND APPARATUS

Examiner : Bruce F. Bell
Art Unit : 1746
Date of Notice Allowance : May 10, 2004
Docket No. : 130109.408
Date : August 10, 2004

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT

Commissioner for Patents:

Applicants hereby request reconsideration of the patent term noted in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) provided with the Notice of Allowance mailed May 10, 2004. A check including the amount of \$200 for this application is enclosed.

Statement of the Facts:

The Determination of Patent Adjustment under 35 U.S.C. 154(b) indicates that the Patent Term Adjustment for this application to date is 232 days. Applicants submit that the correct patent term adjustment for this application should be 329 days, calculated as follows:

- This application was filed on July 25, 2001.
- A Notice to File Missing Parts was mailed by the USPTO on September 4,

2001. Applicants timely mailed a Response to Notice to File Missing Parts on November 2, 2001. Applicants' Response was received by the USPTO on November 2, 2001 as evidenced by the date-stamped return postcard for the Response to Notice to File Missing Parts, a copy of which is submitted herewith. Despite Applicants' timely response to the Notice to File Missing Parts, the U.S. Patent Office has deducted 97 days of Patent Term.

- The initial action by the USPTO was an Office Action mailed August 20, 2003. Pursuant to 37 CFR 1.702(a), this initial action should have been issued by the USPTO within 14 months of the filing date of the application. As the application was filed on July 25, 2001, fourteen months would have been September 25, 2002. Therefore, pursuant to 37 CFR 1.703(a)(1), the initial action was 329 days late.

- Applicants filed a Response to this Office Action on November 20, 2003, within three months of the mailing date of the Office Action, namely, August 20, 2003. Accordingly, pursuant to 37 CFR 1.703(b), Applicants' response was timely filed.


- The Notice of Allowance was mailed May 10, 2004.

In view of the foregoing, Applicants submit that the patent to be issued from the present application is entitled to a patent term adjustment of 329 days and respectfully request that such a patent term adjustment be granted. Applicants note that this application is not subject to a terminal disclaimer.

The Director is authorized to charge any additional fees due by way of this Application, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



Karl R. Hermanns
Registration No. 33,507

KRH/lhk

Application No. 09/916,213

Application for PTA provided by Notice of Allowance mailed May 10, 2004

Enclosures:

Check including \$200.00 fee

Copy of Determination of Patent Term Adjustment under 35 U.S.C. 154(b) as provided
with Notice of Allowance

Copy of Date-Stamped Returned Postcard for the Response to Notice to File Missing
Parts

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Seattle, Washington 98104-7092

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,213	07/25/2001	Brian Wells	130109.408	6853
00500	7590	05/10/2004	EXAMINER BELL, BRUCE F	
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 6300 SEATTLE, WA 98104-7092			ART UNIT 1746	PAPER NUMBER

DATE MAILED: 05/10/2004

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 232 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 232 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

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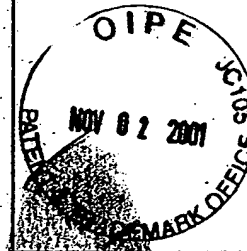
FXA:lrj

Box Missing Parts
Commissioner for Patents
Washington, DC 20231

SENT: November 2, 2001

DUE: November 4, 2001

Date Stamp



Kindly acknowledge receipt of the below-listed documents by placing your receiving stamp hereon and mailing:


Check; Form PTO/SB/21; Form PTO/SB/17 (+ copy); Application Data Sheet; Response to Notice to File Missing Parts; Declaration; Copy of Notice to File Missing Parts; Election and Power of Attorney; in re: Brian Welk et al. USAN 09/916,213, filed July 25, 2001, for FUEL CELL RESUSCITATION METHOD AND APPARATUS.

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC PTO ACCOUNT		EXPRESS MAIL NO. EV335393297US		29406	
(206) 622-4900 701 5TH AVE, STE. 6300, SEATTLE, WA 98104-7043		DATE <u>August 10, 2004</u>		19-2/1250 WA 35709	
PAY TO THE ORDER OF		DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE		\$ **1,839.00**	
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